

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KAHRIS WILLIAMS, <i>Pro Se</i> ,)	Case No.: 1:06 CV 2032
)	
Petitioner)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
DAVID BOBBY, WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On August 24, 2006, Petitioner Kahris Williams (“Petitioner” or “Williams”), *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition,” ECF No. 1) pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court conviction for one count of aggravated murder, with firearm, mass murder, and felony murder specifications; one count of attempted murder, with firearm specification; one count of aggravated robbery, with firearm specification; one count of possession of drugs; and one count of having a weapon while under disability. (ECF No. 1; Answer of Resp’t 5, ECF No. 7.) Williams alleged four grounds for relief: ineffective assistance of trial counsel; ineffective assistance of appellate counsel; violation of *Miranda* rights; and prosecutorial misconduct. (ECF No. 1, at 5-10; Report and Recommendation 5-6, ECF No. 9.)

This court referred the case to Magistrate Judge George J. Limbert for preparation of a Report and Recommendation. (ECF No. 4.) On December 22, 2006, Respondent David Bobby,

Warden, (“Respondent”) filed its Return of Writ. (ECF No. 7.) Petitioner did not file a Traverse. The Magistrate Judge submitted his Report and Recommendation on June 26, 2007, recommending that Williams’ Petition be dismissed. (ECF No. 9.) Specifically, the Magistrate Judge found that Petitioner’s third and fourth grounds for relief are unexhausted. (*Id.* at 10.) In such cases, the court can either: (1) dismiss the entire Petition, *see Rose v. Lundy*, 455 U.S. 509, 518-20 (1982); *Rust v. Zent*, 17 F.3d 155, 160 (6th Cir. 1994); (2) stay the petition so as to allow the petitioner to present his unexhausted claims to the state court, *Rhines v. Weber*, 544 U.S. 269 (2005); or (3) excuse the exhaustion requirement and deny the Petition on its merits, 28 U.S.C. § 2254(b)(2). (*See* ECF No. 9 at 10-11.) The Magistrate Judge recommended denying a stay in the within case and denying the Petition on its merits because the claims were plainly meritless. (*Id.* at 11-20.) The Magistrate Judge further found that Petitioner’s first and second grounds are procedurally defaulted. (*Id.* at 22, 24.)

As of the date of this Order, Petitioner has not filed objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge’s recommendation. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The court finds, after careful review of the Magistrate Judge’s Report and Recommendation and all other relevant documents, that the Magistrate Judge’s conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge’s Report and Recommendation. (ECF No. 9.)

Consequently, Williams’ Petition is hereby denied, and final judgment is entered in favor of Respondent. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this

decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 24, 2007